



City of Seattle

Gregory J. Nickels, Mayor

Department of Design, Construction and Land Use

D. M. Sugimura, Acting Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR
OF THE DEPARTMENT OF DESIGN, CONSTRUCTION AND LAND USE**

Application Number: 2009010
Applicant Name: Jens Muller for Geordie Sze
Address of Proposal: 1401 Queen Anne Avenue North

SUMMARY OF PROPOSED ACTIONS

Master Use Permit (MUP) for future construction of a 6-story apartment building containing 10 residential units, with below-grade parking for thirteen (13) vehicles to be accessed from West Lee Street.

The following approval is required:

Administrative Design Review – SMC Chapter [23.41](#), involving design departures from the following Land Use Code development standards:

- SMC [23.45.052 B1c](#), structure depth,
- SMC [23.45.056 B2](#), rear setback,
- SMC [23.45.056 C](#), side setback,
- SMC [23.45.054](#), façade modulation.

SEPA DETERMINATIONS

☒ [X] Exempt ☐ [] DNS ☐ [] MDNS ☐ [] EIS

☐ [] DNS with conditions

☐ [] DNS involving non-exempt grading, or demolition, or involving another agency with jurisdiction.

PROJECT DESCRIPTION

The proposed development is a six-story residential structure with ten (10) apartment units. On-site, subgrade parking for thirteen (13) vehicles will be accessed from West Lee Street.

SITE AND VICINITY

The site is located in the Upper Queen Anne neighborhood at the northwest corner of Queen Anne Avenue North and West Lee Street. Saint Anne's Catholic Church and School are one block to the west. The Queen Anne business district begins one block to the north.

Queen Anne Ave. N. crests one block to the north where it meets West Galer Street, slopes gradually to the south past the site for about two blocks, then descends much more steeply toward Lower Queen Anne. West Lee Street climbs gradually to the east, and the right of way has been left undeveloped as it meets a steep west-facing slope across Queen Anne Ave N.

The site is approximately 128 feet long by 50 feet wide and slopes gradually to the southwest. The property banks somewhat steeply (about 30%) at its south and west boundaries, dropping about 10 feet at its southwest corner. No portion of the site is mapped as an Environmentally Critical Area. The site was recently occupied by a large house and a single-car garage at the southwest corner. The front yard facing Queen Anne Avenue North is dominated by a very large copper beech tree.

The site is zoned Midrise Residential (MR) and is located in the Queen Anne/Uptown Urban Center. All surrounding properties in the immediate vicinity are similarly zoned. Land further to the north, at the beginning of the Upper Queen Anne business district, is zoned Neighborhood Commercial 2 with a 40-foot base height limit (NC2-40). Land further to the east is a mixture of residential Lowrise (L1 and LDT), and single family (SF 5000), but the steep slope creates an abrupt division between the two zones.

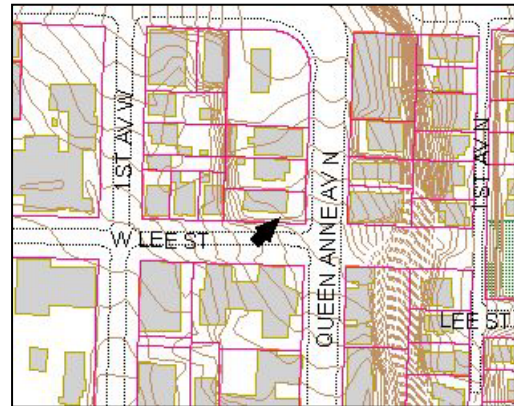


Figure 1. Local topography

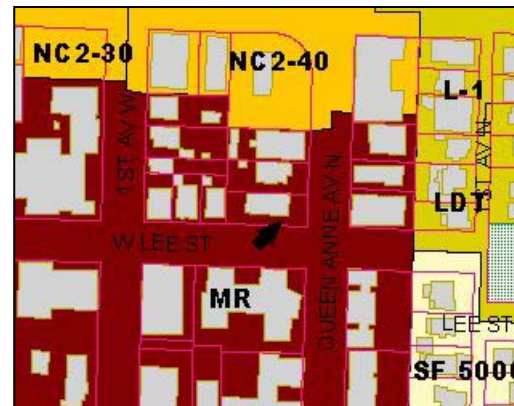


Figure 2. Zoning



Figure 3. Aerial View

The immediate neighborhood is a mixture of older lowrise apartments and single family homes, newer midrise apartment buildings, and various church and school properties. Given the current zoning, it is likely that redevelopment will occur on other nearby properties, particularly those developed with single family homes. Construction has recently been completed for a 6-story, 20-unit apartment building immediately to the north at [1409 Queen Anne Avenue North](#). A database query for the surrounding neighborhood shows plans to demolish an existing four-plex to construct a six-story apartment building to the northwest of the site at [1414 1st Avenue West](#). The database query showed no other development proposals of note, but the applicant has indicated that the three single-family homes to the west of the subject property are slated for redevelopment.

On August 15, 2002, DCLU received a complaint related to unpermitted demolition at the site. A site inspection revealed that the house had in fact been demolished. A DCLU building inspector posted the site with a “stop work” order, though the demolition had essentially been completed. The ground around some of the base of the copper beech appears to have been left undisturbed, but access to the site was clearly across the northeast corner, which a consulting arborist had identified as critical root zone. No tree protection measures were apparent at the site visit (no protective fence, no signage). According to the applicant, no arborist was present during the demolition work.

PUBLIC COMMENT, EARLY DESIGN GUIDANCE


DCLU published a notice of application for this file on May 10, 2001, and the associated comment period ended on May 25. DCLU received 18 letters from the public expressing interest or concern. The list below summarizes those concerns.

Citizen concern	DCLU response
<i>Design review process</i>	
<ul style="list-style-type: none">Disagree with Administrative Design Review process that allows for Code departures without consideration by Design Review Board in a public meeting.	When not otherwise required to submit for design review, an applicant may volunteer to go through the process in order to achieve certain departures from development standards. This process is administrative, per SMC 23.41.016 , and requires that Code departures be weighed against additional design benefits. There is no public meeting associated with Administrative Design Review, but public notice does encourage community feedback.
<ul style="list-style-type: none">Do not support any departures without some mitigating circumstances.	Design departures are considered in light of proposed benefits.

Citizen concern	DCLU response
<ul style="list-style-type: none"> Concerned that there was no scheduled community meeting. 	No public meeting is required for Administrative Design review.
<i>Tree preservation</i>	
<ul style="list-style-type: none"> Save the big tree (copper beech at southeast corner of the property). 	This priority is discussed extensively below.
<i>Height, bulk, and scale</i>	
<ul style="list-style-type: none"> Eight stories is too much, four stories is more than enough. 	Proposal is for a six (6) story structure that meets the height limit prescribed by the Land Use Code for this site and vicinity.
<i>Neighborhood context</i>	
<ul style="list-style-type: none"> “Crooked” building immediately to the north is not an appropriate contextual structure. 	Duly noted.
<i>Concerns beyond the scope of design review</i>	
<ul style="list-style-type: none"> Area is “glutted” (i.e. too dense?), which impacts child safety. 	Residential density is regulated by the Land Use Code, and the proposed project does not exceed any development standard for density in the MR zone.
<ul style="list-style-type: none"> Increased traffic near the school and church. 	Traffic impacts are generally considered in a State Environmental Policy Act (SEPA) analysis. However, this project is exempt from SEPA review.
<ul style="list-style-type: none"> Any departures should be considered using criteria applied to variances. 	Design Review is a different process than exceptions granted through variance.
<ul style="list-style-type: none"> Limit construction noise. 	Noise impacts are generally considered in a SEPA analysis. However, this project is exempt from SEPA review.


GUIDELINES:

After visiting the site, considering the analysis of the site and context provided by the proponents and reviewing public comment, DCLU provided the siting and design guidance described below and identified by letter and number those siting and design guidelines of highest priority to this project. Guidelines are found in the City of Seattle’s [Design Review, Guidelines for Multifamily and Commercial Buildings](#).

Guideline	Guidance
A. Site Planning	
<p>A-1 Responding to Site Characteristics</p> <p>The siting of buildings should respond to specific site conditions and opportunities such as non-rectangular lots, location on prominent intersections, unusual topography, significant vegetation and views or other natural features.</p>  <p>Figure 4. Copper beech on site.</p>	<p>Guidance: A Seattle Department of Transportation (SDoT) landscape architect has identified a large copper beech (<i>Fagus sylvatica</i> “Purpurea”, see Figure 4) as an exceptional tree on the site. According to the arborist, the tree is in excellent condition, measures 44 inches dbh (diameter at breast height) and approximately 80 to 100 feet in height.</p> <p>The approval of any requested departures will be strongly linked to the benefits inherent in protecting the existing beech. The applicant should provide a site plan prepared by a consulting arborist, which identifies the undisturbed area required for the long-term viability of the tree’s root system. The subsequent proposal should site the building and vehicular access outside of that area. Successful tree preservation would likely also require that all construction and staging activity occur outside of the designated area.</p> <p>Please submit a statement by a consulting arborist regarding the feasibility of preservation in consideration of the revised program involving relocated open space and new departures.</p> <p>This tree is a substantial amenity to the site and the surrounding neighborhood. In order to maintain the tree, DCLU is favorably inclined to consider further code departure requests as part of the design review process.</p> <p>Design response: <i>Complying with the SeaTran [SDoT] landscape architect recommendations, we include the existent large "copper beech" tree in our development. Saving this [exceptional] tree will maintain the current appearance and orientation of the property within the neighborhood. The tree is located about 15 feet west of the property line at Queen</i></p>

Guideline	Guidance
	<p><i>Anne Ave. N. The development will not be closer than about 16 feet to the trunk of the tree, as the City of Seattle arborist requested. Furthermore, the applicant will provide necessary protection according the City of Seattle Public Utilities Department guidelines during construction.</i></p> <p>Recommendation. The applicant has significantly redesigned the project to incorporate preservation of the beech tree. As proposed, the design clearly meets the intent of the guidance. DCLU conditions its approval of the proposal by requiring a feasibility study and active input by a consulting arborist throughout construction (see condition #1).</p>
<p>A-2 Streetscape Compatibility</p> <p>The siting of buildings should acknowledge and reinforce the existing desirable spatial characteristics of the right-of-way.</p>	<p>Guidance: Given that the property is a reversed corner lot, the applicant does not need a side setback departure for the south side of the currently proposed design. Should the applicant choose to reconfigure the proposed structure to accommodate the beech, it is important that any encroachment into the southern side setback also include design features that address the pedestrian environment of West Lee Street. The applicant might distinguish the ground floor with a different finish material, provide a slightly different fenestration from the remaining floors, or propose some other repetitive design feature that creates substantial interest at the sidewalk level.</p> <p>Design response: <i>The site is close to the Queen Anne hill top, where the nearby buildings are an eclectic mix of uses, ages and types. Upper floors may have views of downtown, the Space Needle and to the southwest. Although this is not considered a view site, it is possible that upper floors could have views of the peaks of the Olympics or the water. The surrounding arterials except Queen Anne Ave. N. are mostly less frequented streets. Immediately across our site is an older six story brick apartment building with a prominent, angled face adjacent</i></p>

Guideline	Guidance
	<p><i>to Queen Anne Ave. N. We intend to draw some inspiration from this building. The use of bay windows is contextually appropriate in consideration of the attractive appearance along W. Lee St. To visually reduce the appearance of height of the top floor, an "all around" setback and a change in material is introduced. Also, the possible bay windows would end at the fourth level, so as to not dominate the building's profile when viewed from street level.</i></p> <p><i>Also, the building is visually divided in two portions by a transparent core, serving all levels and at the same time eminently breaking down the bulk along W. Lee St.</i></p> <p><i>As passersby approach the building from busy Queen Anne Ave. N., the extended, four story glass front will reflect the tree and give viewers the sense of intensified nature without being overbearing.</i></p> <p><i>The first two ground floors will provide a detailed brick façade, in comparison with a different fenestration. In addition, the ground related units will have direct street access in order to maintain interaction and the common feel of pedestrian scale.</i></p> <p>Recommendation: While the updated design in the Master Use Permit (MUP) submittal addressed most guidances, it did not achieve a strong sense of entry as discussed in guidances A-2, A-3, A-4, C-1, and C-3. The applicant updated plans in April 2002 to supplement the proposed northern entry with a significant pedestrian entry on W. Lee St, accessed by a set of stairs. The revised design clearly addresses the earlier guidance, and no further conditioning is warranted.</p>
<p>A-3 Entrances Visible from the Street Entries should be clearly identifiable and visible from the street.</p>	<p>Guidance: The applicant has identified Queen Anne Avenue North for the project's principal entrance. Vehicular access is to be from West Lee Street. DCLU encourages the use of a</p>

Guideline	Guidance
 <p>Figure 5, nearby entries that provide both a sense of stature and enclosure.</p>	<p>recessed entry that functions similarly to those of nearby developments (consider Hillcrest Manor on 21 West Lee Street and the northern entry to St. Anne’s School in Figure 5 for contextual examples).</p> <p>The pedestrian access may take advantage of the existing tree through complementary shade-tolerant landscaping, etc. If feasible, the applicant may elect to extend the structure into the northeast corner of the lot, in which case a clearly defined entrance is particularly important.</p> <p>Design response: <i>According to the identification of the main entrance at the north side of the building, the main entry from Queen Anne will be accentuated with a significant portal. In addition, a trellis-covered, paved and landscaped walkway may lead the visitor towards the main building entry.</i></p> <p>Recommendation: See recommendation A-2 above. DCLU encourages the proposed portal as a design amenity to enhance access to the northern entryway.</p>
<p>A-4 Human Activity</p> <p>New development should be sited and designed to encourage human activity on the street.</p>	<p>Guidance: As a single-use residential structure, the proposal should provide visual interest at the sidewalk level through appropriate modulation and design features such as those suggested under Guideline A-2.</p> <p>Design response: <i>In addition to the before mentioned pedestrian scale, the development will provide visual interest with significant landscape along W. Lee St., which will be a continuation of a park-like area around the existing tree.</i></p> <p>Recommendation: See recommendation A-2 above. Proposed landscaping is appropriate.</p>
<p>A-7 Residential Open Space</p> <p>Residential projects should be sited to</p>	<p>Guidance: Given the above guidance related to the preservation of the beech tree, ground-level</p>

Guideline	Guidance
<p>maximize opportunities for creating usable, attractive, well-integrated open space.</p>	<p>open space on this site is most appropriately located at the front along Queen Anne Avenue North. If possible, the applicant may choose to explore the possibility of extending the building into the northeast portion of the property, potentially creating a greater sense of enclosure of the open space.</p> <p>Design response: <i>An extension of the structure towards the northeast corner of the property interferes with the root zone of the tree as well as with the goal to provide an interesting, but not sculpture-like design. However, the area of the property along Queen Anne Ave. N. and around the tree, may give us the opportunity to create a park-like area, significantly visible from the street. Additionally, we will provide landscaping around the building at all open spaces.</i></p> <p>Recommendation: Design response is acceptable.</p>
<p>A-8 Parking and Vehicle Access</p> <p>Siting should minimize the impact of automobile parking and driveways on the pedestrian environment, adjacent properties and pedestrian safety.</p>	<p>Guidance: The existing proposal identifies the most suitable location for parking access: at the southwest corner of the property.</p> <p>Design response: <i>The development will provide below-grade parking with access from W. Lee St.</i></p>
<p>A-10 Corner Lots</p> <p>Buildings on corner lots should be oriented to the corner and public street fronts. Parking and automobile access should be located away from corners.</p>	<p>Guidance: Provide a clearly articulated plan for how the building and additional landscaping will relate to the site's open space. Given that the DCLU preferred alternative is to leave the southeast corner as open space, it is important that this corner be emphasized and appropriately framed by the building.</p> <p>Design response: <i>As proposed in guidance A-2, the design will provide the area at the southeast corner as a park-like area and accentuate this scenario with a glass front, relating to the shape of the tree.</i></p> <p>Recommendation: Design response is</p>

Guideline	Guidance
	acceptable.

C. Architectural Elements and Materials

C-1 Architectural Context

New buildings proposed for existing neighborhoods with a well-defined and desirable character should be compatible with or complement the architectural character and siting pattern of neighboring buildings.



Figure 6, while not an entirely appropriate contextual example, the first building above presents a solidity that serves as a strong counterpoint to the various short, angular façades of the new building to the north of the property. The second building above is not an appropriate contextual building.

Guidance: The emerging character of the vicinity is in line with its currently zoned midrise development potential. The Upper Queen Anne Neighborhood in general, and this zone in particular, contain a variety of building types, architectural styles and finish materials.

DCLU invites the applicant to further define the local architectural context and refer to that in a more refined proposal. In doing so, the applicant should

- reflect the solid lines of nearby apartment buildings (see Figure 5 above and the first example in Figure 6). This may be achieved through the use of brick, either as the principal finish material or as a substantial base for the structure.
- provide a clear sense of entry as described in guidance A-3.

Design response: *As described in guidance A-2 and A-3, we intend to draw some inspiration from the building south of our property and provide a significant brick-base, which will carry the major character of the existing neighborhood. The upper floors may show an appropriate colored siding. The upper floors will set back from the main façade and provide an open, almost vanishing and mostly glazed finish.*

The main entry from Queen Anne will be accentuated with a significant portal design and followed by emphasizing the walkway which will lead the visitor to the main building entry.

Recommendation: Proposed entries are acceptable. See recommendation A-2 above.

The currently proposed design is a stark departure from much of the existing architectural

Guideline	Guidance
	<p>context of Queen Anne Hill. The proposal is modernist and angular, with a butterfly roof (pitched inward rather than outward). Finished materials include glass, concrete brick, hardiboard and wood panel. The top two floors are heavily glassed, and the divided lights of windows on lower levels involve an interplay of varying shapes and scales. Balconies on the east, south, and northeast define the building's unconventional angles.</p> <p>The proposed structure is only tangentially referential to the strong lines of the apartment building to the south, and not at all contextual with the other surrounding development. However, a DCLU team of design review planners has agreed that the proposal provides a quality, innovative response to a challenging site.</p>
<p>C-2 Architectural Concept and Consistency</p> <p>Building design elements, details and massing should create a well-proportioned and unified building form and exhibit an overall architectural concept.</p> <p>Buildings should exhibit form and features identifying the functions within the building. In general, the roofline or top of the structure should be clearly distinguished from its façade walls.</p>	<p>Guidance: Considering the newly recognized priority of preserving the existing beech tree, the new building mass is likely to be significantly different from the originally submitted massing diagram. The applicant should consider this guideline in proposing the subsequent design.</p> <p>Design response: <i>As described already in guidance A-1 and A-2, saving the [exceptional] tree, will maintain the current appearance and orientation of the property within the neighborhood. Also, the massing and appearance of the six-story building as allowed by the current zoning, will be broken down with a transparent service core which continues up over all levels. The roofline will cantilever over the top units and create an exciting cover for the recessed upper floors.</i></p> <p>Recommendation: The updated design clearly meets the original guidance. See recommendation A-1.</p>
<p>C-3 Human Scale</p>	<p>Guidance: Important elements related to this</p>

Guideline	Guidance
<p>The design of new buildings should incorporate architectural features, elements and details to achieve a good human scale.</p>	<p>guideline are the ground-floor façade along West Lee Street, the appropriate programming of the site's open space, and the design of the principal entrance.</p> <p>Design response: <i>A suitable human scale will be achieved by a brick base in general and with separate unit entries along W. Lee St. in specific. In addition, a significant portal would unmistakably mark the main entry way from Queen Anne Ave. N. Open Space will be provided as described in A-7.</i></p> <p>Recommendation: No further issues.</p>
<p>C-4 Exterior Finish Materials</p> <p>Building exteriors should be constructed of durable and maintainable materials that are attractive even when viewed up close. Materials that have texture, pattern, or lend themselves to a high quality of detailing are encouraged.</p>	<p>Guidance: Common building materials in the area are red brick with detailing in concrete or granite. DCLU is inclined to consider other finish materials proposed by the applicant, but strongly encourages the incorporation of brick to some significant extent in the proposed structure.</p> <p>Design response: <i>The proposed design will provide red brick as a base over the first two levels. The middle floors may show Hardie-Panel siding, wood or metal structural elements at the upper floors.</i></p> <p>Recommendation: While the original design response envisioned red brick at the base, subsequent design updates have substituted cement brick as a more appropriate choice for the overall design concept. Given the discussion in recommendation C-1, DCLU accepts either material to meet the original guidance.</p>
<p>C-5 Structured Parking Entrances</p> <p>The presence and appearance of garage entrances should be minimized so that they do not dominate the street frontage of a building.</p>	<p>Guidance: The garage entrance is appropriately located away from the street corner, and may be set back somewhat from the property line in order to diminish its visual impact on the street.</p> <p>Design response: <i>The proposed garage entrance is located away from the street corner, along W. Lee St. According to the embedded pedestrian walkway in two plant strips, the entrance is not a</i></p>

Guideline	Guidance
	<p><i>visual impact on the street.</i></p> <p>Recommendation: No further issues.</p>

D. Pedestrian Environment	
<p>D-1 Pedestrian Open Spaces and Entrances</p> <p>Convenient and attractive access to the building's entry should be provided. To ensure comfort and security, paths and entry areas should be sufficiently lighted and entry areas should be protected from the weather. Opportunities for creating lively, pedestrian-oriented open space should be considered.</p>	<p>Guidance: This guideline is highly applicable to this project and could be the principal benefit offered in exchange for zoning departures. Consider the guidance provided under A-3 and A-7. DCLU encourages the applicant to take advantage of southern views and sun exposure while providing some sense of enclosure around the possible open space discussed above.</p> <p>Design response: <i>As described in guidance A-3 and A-7, the main entry from Queen Anne will be accentuated with a significant portal. In addition, a trellis-covered, paved and landscaped walkway may lead the visitor towards the main building entry. The portal and the walkway will provide sufficient lighting and the actual building entry will be covered.</i></p> <p>Recommendation: Paired with the updated addition of a substantial entryway at W. Lee Street, the above design response appropriately meets the guidance.</p>
<p>D-2 Blank Walls</p> <p>Buildings should avoid large blank walls facing the street, especially near sidewalks. Where blank walls are unavoidable, they should receive design treatment to increase pedestrian comfort and interest.</p>	<p>Guidance: This guideline applies primarily to the building façade along West Lee Street. Attention to fenestration and/or modulation should help to address this issue.</p> <p>Design response: <i>The main façade along W. Lee St. will be broken down vertically by a change of material and/or color, as well as horizontally by breaking the length into two parts which then seem to be separate buildings and would refer better to the smaller, yet existing neighborhood bulk.</i></p> <p>Recommendation: Paired with the updated addition of a substantial entryway at W. Lee Street, the above design response appropriately</p>

Guideline	Guidance
	meets the guidance.
<p>D-6 Screening of Dumpsters, Utilities and Service Areas</p> <p>Building sites should locate service elements like trash dumpsters, loading docks and mechanical equipment away from the street front where possible. When elements such as dumpsters, utility meters, mechanical units and service areas cannot be located away from the street front, they should be situated and screened from view and should not be located in the pedestrian right-of-way.</p>	<p>Guidance: Where possible, these should be located in the structured parking below grade.</p> <p>Design response: <i>All service elements will be located in the below grade parking garage.</i></p> <p>Recommendation: No further issues.</p>
<p>D-7 Personal Safety and Security</p> <p>Project design should consider opportunities for enhancing personal safety and security in the environment under review.</p>	<p>Guidance: This might be addressed through adequate lighting and a well designed, secure vestibule. Sufficient south-facing windows are also an important design feature that enhances the sense of safety on the sidewalk.</p> <p>Design response: <i>There will be sufficient lighting and a sufficient amount of south-oriented openings.</i></p> <p>Recommendation: No further issues.</p>

E. Landscaping	
<p>E-2 Landscaping to Enhance the Building and/or Site</p> <p>Landscaping including living plant material, special pavements, trellises, screen walls, planters, site furniture and similar features should be appropriately incorporated into the design to enhance the project.</p>	<p>Guidance: There are several possibilities for landscape design of open space located on the site's southeast corner. If the applicant chooses to pursue this option, he should propose how such a space is to be used and maintained. For instance, is this to be an unstructured, open area freely accessible to its occupants, or is it to be a more formal, contained space that focuses access along defined paths?</p> <p>Design response: <i>Among general landscaping, there may be a park-like area created around the existing tree. Due to the fact of adjacent, private units, this area will be accessed by occupants with defined paths to paved</i></p>

Guideline	Guidance
	<i>recreation patios.</i> Recommendation: Response is appropriate.
E-3 Landscape Design to Address Special Site Conditions The landscape design should take advantage of special on-site conditions such as high-bank front yards, steep slopes, view corridors, or existing significant trees and off-site conditions such as greenbelts, ravines, natural areas, and boulevards.	Guidance: As discussed above, landscape design should be focused around the preservation of the copper beech tree and a sense of entry from Queen Anne Avenue North. Landscaping located beneath the tree must be shade tolerant. Design response: <i>The landscaped area around the existing tree will be high above W. Lee St. and gives the opportunity to create a recreation space which would have a view down Queen Anne Avenue and towards the Seattle harbor-line and a part of downtown.</i> Recommendation: Response adequately meets the intent of the guidance. See recommendation A-1.

DECISION – DESIGN REVIEW

The Director approves the proposed design and the associated Land Use Code departures on condition that the above recommendations be fully implemented. The DCLU recommendations do not conflict with applicable regulatory requirements and law, are within the authority of administrative design review, and are consistent with the design review guidelines.

The Director grants the requested departures for increased lot coverage, increased structure width, increased structure depth, a decreased north side setback, and reduced modulation (refer to Appendix A on page 19), subject to the conditions listed below.

CONDITIONS – DESIGN REVIEW

Prior to issuance of the Construction Permit:

1. **Rendered drawings.** The applicant shall provide color drawings of the structure for documentation of design details and for future inspection purposes.
2. **Tree protection measures.** Preservation of the existing beech is central to all the design departures contemplated for this project. The applicant has submitted a tree protection plan

prepared by Urban Forestry Services Inc, dated March 19, 2002, which outlines several measures intended to protect the beech. DCLU considers this report to constitute an approved tree protection plan for the project, except as modified below. The owner(s) and/or responsible party(ies) must adhere to the approved tree protection plan, as modified by the following conditions.

- a. **Consulting arborist.** A consulting arborist¹ shall be retained prior to and throughout construction to direct any necessary construction-related activities within the identified critical root zone.
- b. **Shoring analysis.** Provide a shoring plan that conforms to the submitted tree protection plan. Show the area to be disturbed, including excavation, shoring, vehicle maneuvering and staging areas. Provide design-level drawings that demonstrate to the applicant's satisfaction the feasibility and cost-effectiveness of proposed shoring.
- c. **Preconstruction meeting(s).** The principal contractor for the project shall contact the project planner to discuss conditions of the Master Use Permit. The applicant(s) and/or responsible party(s) shall notify the project planner within two (2) days of any DCLU preconstruction meeting regarding site activities that could affect the preservation of the beech tree. The consulting arborist must attend the first such meeting.
- d. **Tree protection fence.** The owner(s) and/or responsible party(ies) shall place a fence around the space identified as Critical Root Zone in the consulting arborist's report, dated March 19, 2002. The fence shall be 6-foot chain link, mounted on poles driven into the ground or in cement pads wired to rebar driven into the ground. The applicant may propose alternatives, subject to approval by the DCLU planner. The consulting arborist shall approve the installation of the tree protection fence before any further demolition or construction is to occur on the site.
- e. **Signage.** A sign shall be placed on the fence stating "*TREE PROTECTION FENCE: No trespassing on the Critical Root Zone of this tree without direct approval of the consulting arborist. Damage to the tree or its roots from unapproved work shall result in penalties. This tree has a landscape value of more than \$50,000.*"
- f. **Pruning.** Any pruning prior to or during construction must be performed by or supervised by the consulting arborist. Only minor dead limbs and live limbs that directly interfere with the new building may be removed, using ANSI A-300 pruning standards.
- g. **Tree protection insurance.** The owner(s) and principal contractor(s) shall submit proof of insurance for tree protection or replacement, in accordance with the instructions in Appendix B on page 21. The City shall be named as additional insured. The owner(s) or responsible party(ies) shall submit to DCLU a signed contract stating that the project's general contractor assumes responsibility for adherence to tree protection measures, and

¹ A professional with a minimum of 2 years experience in tree evaluation and work directly involving the protection of trees during construction along with one of the following qualifiers:

- Society of American Foresters (SAF) Certified Forester; or
- Registered American Society of Consulting Arborists (ASCA) Consulting Arborist; or
- ASCA Consulting Arborist; or
- Washington State Licensed Landscape Architect; or
- An International Society of Arborists (ISA) Certified Arborist with an Associate Degree and/or a minimum of 2 years of college-level credit and/or 120 Continuing Education Units.

that claim may be made against the general contractor for any damages to the tree or loss of the tree resulting from noncompliance.

Prior to and/or During Construction

3. **Design changes.** Any changes to the exterior façades of the building and landscaping shown in the building permit must involve the express approval of the project planner.

During Construction

4. **Tree protection measures.** All tree protection measures recommended by the tree protection plan shall be followed during construction. Refer to the consulting arborist's report dated March 19, 2002 and any subsequent recommendations resulting from condition **Error! Reference source not found..**
 - a. **Exceptions for work in critical root zone.** Any work within the critical root zone not anticipated in the arborist's report dated March 19, 2002 shall be reviewed and approved in advance by the consulting arborist and the project planner. Call Scott Ringgold, DCLU Land Use Planner, at (206) 233-3856. Such work will be strictly conditioned upon whether the owner(s) and/or responsible party(ies) provide three (3) days' prior notice to allow DCLU to evaluate the request.
 - b. **Roots outside critical root zone.** All construction activity shall occur outside the Critical Root Zone. Any tree roots encountered during excavation shall be cut off cleanly. Exposed and accessible roots shall be immediately covered with soil or protected with mulch. Exposed roots shall not be pulled back out of the ground toward the critical root zone.
 - c. **Tie back limbs.** After pruning, remaining limbs that conflict with construction activity shall be tied back under supervision of the consulting arborist.
 - d. **Landscaping.** Installation of proposed landscaping in the critical root zone shall be approved by the consulting arborist. If arborist recommendations result in changes to the approved landscape plan, the owner(s) and/or responsible party(ies) shall obtain the approval of the undersigned land use planner or his successor. Further Design Review departures from landscaping development standards are possible if the consulting arborist judges modifications to be in the interest of tree protection.

Prior to Issuance of the Final Certificate of Occupancy

5. **Tree protection measures.**
 - a. **Arborist's assessment.** On completion of site disturbance and construction activities, the consulting arborist must verify in writing to the undersigned planner or his successor the extent to which work at the site has complied with tree protection conditions of this decision and the recommendations of the consulting arborist contained in the tree protection plan dated March 19, 2002. This report shall include the arborist's assessment of the likelihood that the tree may be successfully retained for the life of the project. In this report, the arborist may also recommend further short-term measures for retention of

the beech, which measures, if any, must be completed prior to issuance of the permanent Certificate of Occupancy.

6. **Design review inspection.** Compliance with all design review provisions must be verified and approved by the Land Use Planner prior to the final building inspection. The applicant(s) and/or responsible party(ies) must arrange an appointment with the Land Use Planner at least three (3) working days prior to the required inspection.

Signature: _____ (signature on file) Date: February 13, 2003

Scott A. Ringgold, Land Use Planner
Department of Design, Construction and Land Use
Land Use Division

APPENDIX A: DEPARTURE FROM DEVELOPMENT STANDARDS:

The table below itemizes the requested departures and reflects DCLU's discussion and recommendations. The recommendations are based upon the departures' potential to help the project better meet the design guideline priorities and achieve a better overall design than could be achieved without the departures.

The applicant requested departures from the following Land Use Code development standards:

<i>Requirement</i>	<i>Proposed</i>	<i>Comments</i>	<i>Action by DCLU</i>
SMC 23.45.052 , building depth. 65% of lot depth, or 83 feet. Exceptions related to lot coverage and modulation don't apply.	90.7 feet, 7.7' longer than otherwise allowed (+8.5%).	"The development is based on a transparent lobby element, which breaks the long base structure visually in two separate parts and thus prevents the negative impression of a box character. With this additional element, the overall length exceeds the otherwise allowable depth.	DCLU grants the requested departure based on the quality of the overall design and the continued tree protection measures.
SMC 23.45.054 , facade modulation. Minimum width of modulation shall be 10 feet.	8' x 8'	"Although there is insufficient modulation at the south façade, to match the Code would result in a longer overall dimension because the modulation serves only as entryway. Also, the revised north entry is a result to eliminate the otherwise necessary exterior stair, serving as a direct exit. The remaining pieces do not exceed 40'. Other than just a simple setback in the structure, this lobby element will be absolute transparent and will grant views through the structure. In addition, the fifth and sixth floor (penthouse) remains completely open."	DCLU grants the requested departure based on the upgraded entryway located off W. Lee Street, which enhances the visual break midway along the south façade.

SMC 23.45.056 C , side setbacks . 8' required for street side, 11' for north side.	South side (street): 8' North side: 5' minimum, 7'2" average (34.7% less than code-compliant).	"Based on the tree conservation, the proposed building steps back towards the northwest corner of the property. However, by maintaining 8' setbacks, there will be sufficient space for exclusive landscaping and branch/root protection for the beech tree as well."	DCLU grants the requested departure based entirely on the continued tree protection measures.
SMC 23.45.056 B , rear setback . 10', including a discretionary 5' adjustment.	7'10" (21.7% less than code-compliant).	Same as above.	DCLU grants the requested departure based entirely on the continued tree protection measures.

APPENDIX B: EVIDENCE OF LIABILITY INSURANCE

**THE SEATTLE DEPARTMENT OF DESIGN, CONSTRUCTION AND LAND USE (DCLU)
REQUIRES EVIDENCE OF LIABILITY INSURANCE FOR SOME TYPES OF BUILDING AND
GRADING USE PERMITS:**

Prior to undertaking any work under this Agreement, the Contractor, at no expense to the City, shall obtain and file with the Seattle Department of Design, Construction and Land Use and the City's Risk Manager, evidence of a policy or policies of insurance as enumerated below.

- 1) A policy of **Commercial General Liability Insurance**, written on an insurance industry standard occurrence form (ISO form CG 00 01) or equivalent, including all the usual coverage known as:
 - Premises/Operations Liability
 - Products/Completed Operations
 - Personal/Advertising Injury
 - Contractual Liability
 - Explosion, Collapse and Underground Property Damage (XCU)
 - Independent Contractors Liability
 - Stop Gap or Employers Contingent Liability

Any deductible or self-insured retention must be disclosed and is subject to approval by the City's Risk Manager.

Such Policy or policies must provide the following **minimum limits** for bodily injury and property damage:

\$1,000,000 each occurrence

\$2,000,000 general, products/completed operations aggregate

- 2) A policy of **Commercial Automobile Liability**, written on an insurance industry standard form (ISO form CA 00 01) or equivalent, including coverage for owned, non-owned, leased or hired vehicles.

Such policy or policies must provide the following minimum limit:

Bodily Injury and Property Damage -

\$1,000,000 per accident

Said insurance policy(ies) and subsequent renewals must be maintained in full force and effect, at no expense to the City, throughout the entire period of the permit. The following documents must be provided as evidence of insurance coverage:

- A copy of the policy's declarations pages, showing the policy effective dates, limits of liability and the Schedule of Forms and Endorsements.

- A copy of the endorsement naming the City of Seattle as an Additional Insured, showing the policy number and signed by an authorized representative, on Form CG2026 (ISO).
- A copy of any endorsements to the policy which are not issued on standard (ISO) forms, such as company-specific or manuscript endorsements.
- The coverage provided by this policy to the City or any other named insured shall not be terminated, reduced or otherwise materially changed without providing at least forty-five (45) days prior written notice to the City of Seattle.
- A "Separation of Insureds" or "severability of interests" clause indicating essentially that "except with respect to the limits of insurance, and any rights or duties specifically assigned to the first named insured, this insurance applies as if each named insured were the only named insured, and separately to each insured against whom claim is made or suit is brought."

Note that a "Certificate of Liability Insurance" is not legally binding, and will not be accepted in place of all of the required items.